

# COUNCIL COMING ATTRACTIONS



## **Week of July 16, 2018**

**Proposed Charter Amendments, Moderately Priced Housing, Solar Collection Systems, Landscape Contractors & Accessory Apartments**





Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html> .

The Council meeting schedule may change from time to time. The current Council and Committee agendas can also be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html> .

The Council meeting will begin at 9 a.m. on Tuesday, July 17 with an interview of the County Executive's appointments to the Housing Opportunities Commission. Council proclamation presentations will begin at approximately 9:20 a.m. and include the following:

-  County Executive Leggett and Council President Riemer present a proclamation recognizing Parks and Recreation Month; and
-  Council President Riemer presents proclamation recognizing Peace Day.

## COUNCIL



### **Special appropriation to the County Government's FY19 Capital Budget and Amendment to the FY19-24 Capital Improvements Program (CIP), Conservation of Natural Resources: Stormwater Management Design/Build/Maintain (DBM) Contract**

The Council is scheduled to vote on this special appropriation. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159746](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159746)

On June 14, the County Executive transmitted an FY19-24 CIP amendment proposal for consideration by the Council (see circle pages 14-16 in the staff report). This proposal followed an Executive veto of several Stormwater Management CIP projects that was overturned by the Council on June 19. The Council introduced two resolutions that would implement the compromise proposal (see circle page 1-13). This compromise assumes that the Department of Environmental Protection (DEP) will move forward with a single new design, build and maintain contract for approximately 500 acres of work to be completed over the FY19-24 contract period for the next Municipal Separate Storm Sewer System (MS4) permit. Several elements are revised on the project description form (see circle pages 7-8) from what the Executive previously recommended on March 15. These include:

- The project's FY19 appropriation would be \$20 million instead of the \$43.2 million previously assumed by the Executive. The \$20 million appropriation is assumed to cover the first phase of work identified by the contractor. Future phases of work would require additional appropriations through future Council action.
- Quarterly status reports would be required to be submitted to the Council.
- DEP would be required to meet regularly with an advisory group which would provide input and feedback on project issues.

In addition to these changes, Council staff have discussed with Executive staff a number of modifications regarding the structure and content of the Request for Proposals (RFP) for the DBM contract. Some of the more substantive items include:

- Contract bids would be required to include 10 to 12 existing projects in design but previously suspended by DEP. Bidders also would be required to review all of DEP's suspended projects and note why projects were not selected.
- At least 60 percent of the projects included in contract bids would have to be "green infrastructure" projects.
- At least five percent of the project acreage, or 10 percent of the project costs, would have to be from low impact development (LID) projects.
- DEP must approve or disapprove projects proposed by the contractor and can add or substitute projects (subject to availability of funding in the project).



### **Amendments to the FY19-24 CIP, Conservation of Natural Resources: Miscellaneous Stream Valley Improvements, Stormwater Management Retrofit: Roads and Stormwater Management Retrofit: Countywide Stormwater Management Design/Build/Maintain Contract**

The Council is scheduled to vote on this special appropriation. See information above for more details.

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159748](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159748)



### **Proposed Charter Amendments and Recommendations of Charter Review Commission**

The Council is scheduled to review Charter amendments proposed by the Charter Review Commission. A Council vote on proposed Charter amendments is scheduled for July 24. The County Charter is the constitutional framework for Montgomery County Government. The Council appoints an eleven-member, bi-partisan, Charter Review Commission to study the County Charter. The Commission must report to the Council in May of every even-numbered year with recommendations for possible County Charter revisions. These recommendations may lead to proposed County Charter amendments that are voted on by the

electorate. The 2018 Charter Review Commission Report can be viewed [here](#). The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159750](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159750)



### **Zoning Text Amendment 18-07, Accessory Residential Units – Accessory Apartments**

The Council is scheduled to introduce Zoning Text Amendment (ZTA) 18-07, Accessory Residential Units – Accessory Apartments. Councilmembers Nancy Floreen and George Leventhal and Council President Hans Riemer are the lead sponsors of ZTA 18-07. A public hearing is scheduled for September 11 at 1:30 p.m.

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159752](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159752)

ZTA 18-07 would remove the requirement for conditional use approval for all accessory apartments, revise the limited use provisions for attached and detached accessory apartments and generally amend the provisions for accessory apartments. Members of the Planning, Housing, and Economic Development (PHED) Committee recommend reducing barriers to creating affordable housing options. In the Committee's opinion, the license and appeal process for accessory apartment applications has avoided problems and given neighbors the opportunity for a hearing to express their concerns. The Committee recommended the introduction of ZTA 18-07 and companion Bill 26-18 to amend licensing requirements.



### **Zoning Text Amendment 18-04, Exemptions – Agricultural Zone**

The Council is scheduled to vote on ZTA 18-04, Exemptions – Agricultural Zone. Council President Hans Riemer is the lead sponsor, at the request of the County Executive. ZTA 18-04 would allow the expansion of uses in the Agricultural Zone that were legal before October 30, 2014 but were subsequently made non-conforming. The Executive's transmittal letter includes the following statement: "In light of the fact that there continues to be legitimate concerns about protecting farmland and agriculture, we need to restrict uses in those zones. For that reason, this proposed amendment to the zoning text is proposed to apply only to those uses and structures that were existing and legal at the time the 2014 zoning text went into effect." The ZTA, as proposed, would not limit the expansion of uses that were made non-conforming by the 2014 Zoning Rewrite. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159754](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159754)

The PHED Committee recommends enactment with amendments consistent with the Executive's May 2 proposed revisions (deleting the proposed revision to Section 7.7.1 and amending Section 7.7.2). Specifically, the Committee recommends that Section 7.7.2.A read as follows: A lawful nonconforming use of a structure or lot must not be expanded unless in the Agricultural Reserve Zone, a federal or state health or safety law, regulation or agency requires or recommends the expansion for safety purposes. Before expanding the use or structures, the property owner must provide to the director of the Department of Permitting Services a certification from the applicable federal or state entity that the expansion or enlargement is necessary.



### **Zoning Text Amendment 18-08, Site Plan Amendment – Solar Collection Systems**

The Council is scheduled to introduce ZTA 18-08. Councilmember Tom Hucker is the lead sponsor. A public hearing is scheduled for September 11 at 1:30 p.m. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159756](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159756)

Under ZTA 18-08, a solar collection system on any pre-existing impervious surface would be allowed without amending a previously-approved site plan. As an accessory use, solar collection systems also could be allowed on sites with non-residential uses without a site plan amendment. In such circumstances, any minimum open space requirements must be retained, excluding the area used for the solar collection system.



### **Zoning Text Amendment 18-09, Landscape Contractors – Rural Cluster Zone**

The Council is scheduled to introduce ZTA 18-09. Councilmember Tom Hucker is the lead sponsor. A public hearing is scheduled for September 11 at 1:30 p.m. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159758](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159758)

ZTA 18-09 would amend the definition of landscape contractors. It also would allow landscape contractors existing before October 31, 2014 in the Rural Cluster Zone to be a permitted use under certain circumstances. Last year Councilmembers Tom Hucker and Nancy Floreen asked the Planning Department to examine land uses and activities in the Burtonsville area. The planning director responded to that request on May 16. A master plan amendment was not recommended because the only logical outcome of such an amendment would be the reaffirmation of the existing zones. The director suggested that “a narrowly targeted zoning text amendment may be the only appropriate way to resolve inconsistencies among land uses along Sandy Spring Road.” ZTA 18-09 responds to this recommendation.



### **Bill 26-18, Landlord-Tenant Relations – Accessory Apartment Licensing**

On July 17 at 10:45 a.m. the Council is scheduled to introduce Bill 26-18, Landlord-Tenant Relations – Accessory Apartment Licensing. The PHED Committee is the lead sponsor. A public hearing is scheduled for September 11 at 1:30 p.m.

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159760](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159760)

Bill 26-18 would amend the licensing procedures for an accessory apartment rental license and amend the process for appeals, objections and waivers. This bill is associated with ZTA 18-07 (see page two). ZTA 18-07 would remove the requirement for conditional use approval for all accessory apartments and revise the limited use provisions for accessory apartments. Approval of this bill in some form would be necessary to implement the core concepts in ZTA 18-07.



### **Expedited Bill 27-18, Taxation – Development Impact Tax Credits and Local Area Transportation Review Mitigation Payments**

The Council is scheduled to introduce Expedited Bill 27-18, Taxation – Development Impact Tax Credits and Local Area Transportation Review Mitigation Payments. Council President Hans Riemer is the lead sponsor, at the request of the County Executive. A public hearing is scheduled for September 11 at 1:30 p.m.

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159762](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159762)

Expedited Bill 27-18 would do the following:

- authorize a transportation impact tax credit for certain expenses paid by a property owner for improvements listed in a Unified Mobility Program or the White Oak Local Area Transportation Improvement Program;
- extend the time for the County to spend transportation impact taxes to equal the time transportation impact tax credits remain valid; and
- change the time to certify an impact tax credit from the issuance of a building permit to the collection of the impact tax.



### **Bill 28-18, Boards, Committees and Commissions – Amendments**

The Council is scheduled to introduce Bill 28-18, Boards, Committees and Commissions – Amendments. Council President Hans Riemer is the lead sponsor, at the request of the County Executive. A public hearing is scheduled for September 18 at 1:30 p.m. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159764](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8010&meta_id=159764)

Bill 28-18 would reduce the membership of the Cable and Communications Advisory Committee from 15 members to nine members, increase the number of veteran representatives on the Commission on Veterans Affairs and remove the director of the Department of Economic Development from the Commission, and change the name of the Committee on Hate/Violence to the Committee Against Hate Violence. The Executive originally transmitted three separate bills, but subsequently agreed to consolidate the bills.



### **Expedited Bill 25-18, Health and Sanitation – Special Needs Housing – Renaming**

The Council is scheduled to vote on Expedited Bill 25-18. Council staff recommends enactment of Bill 25-18. Council President Hans Riemer is the lead sponsor, at the request of the County Executive. The purpose of this bill is to modernize the County Code and clarify the names of the programs that the County provides to end and prevent homelessness. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159766](http://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=8010&meta_id=159766)

Bill 25-18 would change the name of the Special Needs Housing Unit in the Department of Health and Human Services to more accurately reflect the services provided; modernize the County Code by updating the recently changed names of state and local programs and clarify the boards, committees and commissions to which the department provides staff support; and amend County law governing the department.



### **Expedited Bill 16-18, Taxation – Transportation Mitigation Payment – Credit**

The Council is scheduled to vote on Expedited Bill 16-18 – Transportation Mitigation Payment – Credit. The PHED Committee recommends approval. The goal of this bill is to enable the director of the Department of Finance to refund a transportation mitigation payment made under the circumstances described below. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159768](http://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=8010&meta_id=159768)

Expedited Bill 16-18 would authorize the director of the Department of Finance to refund a transportation mitigation payment or give the property owner a credit against the development impact tax for transportation due for the development in the amount of any transportation mitigation payment made for the same development prior to March 1, 2017. Transportation mitigation payments are used to fund transportation improvements.



### **Bill 34-17, Housing – Moderately Priced Dwelling Units (MPDU)**

The Council is scheduled to review and vote on Bill 34-17. The PHED Committee recommends enactment with amendments. The recommended amendments begin on page three of the staff report. Councilmember Nancy Floreen is the lead sponsor. Councilmember Craig Rice is a cosponsor. Bill 34-17 would clarify certain provisions of law related to moderately priced dwelling units (MPDUs); amend certain provisions of law related to the satisfaction of MPDU requirements; and amend certain provisions of law related to the sale and rental of MPDUs. Key components of Bill 34-17, as introduced, include:

- clarifying existing provisions of the law and requiring developments of less than 20 homes to make a payment to the Housing Initiative Fund;
- broadening the authority of the director of the Department of Housing and Community Affairs to accept payments into the Housing Initiative Fund in lieu of including MPDUs in a development, when it serves the goal of increasing the availability of affordable housing; and
- increasing the flexibility of the director in determining MPDU obligations to better meet the demands for affordable units.

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159770](http://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=8010&meta_id=159770)



### **Bill 38-17, MPDU – Requirement to Build**

The Council is scheduled to review and vote on Bill 38-17. The PHED Committee recommends enactment with amendments. Council President Hans Riemer is the lead sponsor. Councilmember Sidney Katz is a cosponsor. As introduced, Bill 38-17 would increase the minimum percentage of moderately priced housing units (MPDUs) that are required to be built in new residential developments from 12.5 to 15 percent in a MCPS High School Service Area with an eligibility rate for free and reduced meals (FARMS) of 15 percent or less. The Planning Board would make the determination about the number of affordable homes required at the time an applicant submits a preliminary plan of subdivision.

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=8010&meta\\_id=159772](http://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=8010&meta_id=159772)

The Committee recommends (2-1, with Councilmember Floreen opposed) amending lines 33-40 as follows:



- The minimum number of MPDUs required under this Chapter, as a percentage of the total number of dwelling units at that location, not counting any workforce housing units built under Chapter 25B, is:
  - for development in a Planning Area designated by the Planning Board, in which at least 45 percent of the United States Census Tracts have a median household income of at least 150 percent of the County-wide median household income, at the time the applicant submits a preliminary plan of subdivision, 15 percent; or
  - for any other development subject to this Chapter, 12.5 percent. The Planning Board must update the Planning Area designations under this subsection at least annually.

## COMMITTEE



### **Ten-Year Comprehensive Water Supply and Sewerage Systems Plan**

On July 16 at 2 p.m. the Transportation, Infrastructure, Energy and Environment (T&E) Committee will review the Ten-year Comprehensive Water Supply and Sewerage Systems Plan. The purpose of the Comprehensive Water Supply and Sewerage Systems Plan is to provide an overview of the planning policies, needs, issues and planned infrastructure related to community and individual water and sewerage systems, public health, environmental protection and land-use issues in the County. The plan is intended to provide both background information and a planning basis for the evaluation of the water supply and sewerage system needs in the County. The current 2017-2026 plan can be viewed at:

<https://tinyurl.com/1726Comprehensive>

The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=8019&meta\\_id=159660](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=8019&meta_id=159660)



### **LEED Tax Credits**

On July 19 at 9:30 a.m. the T&E and Government Operations and Fiscal Policy (GO) Committees will meet jointly to review LEED tax credits. The LEED Tax Credit, introduced as the “Green Building” tax credit, may be granted against the general County real property tax and special service area taxes, based on a building achieving one of ten qualified ratings for energy efficient buildings. The staff report will be available on July 17.



### **Amendments to the FY19-24 CIP and Supplemental Appropriation to the FY19 Capital Budget, Department of Transportation, \$7,000,000 for Streetlighting**

The County Executive recommends this \$7 million special appropriation, which consists of \$6,105,000 in long-term financing and \$895,000 in utility incentives, to fund the first phase of upgrading approximately 26,000 streetlight fixtures to light-emitting diodes (LED). This project will leverage utility cost savings to finance the required capital investment. Appropriating funds for the first phase of this project will provide the County with the opportunity to maximize the incentives offered by PEPCO for this activity. Funding for the second phase of work is expected to be requested once a contract with the selected vendor is finalized later this year. The staff report will be available on July 17.



### **Technical Update to the Master Plan of Highways and Transitways**

At 10:15 a.m. the T&E Committee will review a technical update to the Master Plan of Highways and Transitways. The Master Plan of Highways and Transitways is an effort that classifies each Montgomery County road in the transportation network. The plan will update the road network with current classifications, incorporate road changes and align these changes with the County Road Code, which was comprehensively updated in 2008 and 2014. The update will consolidate all roadway amendments that have been approved as part of Master Plans as well as limited functional Master Plan of Highways amendments. The new plan also will include transitways, rail stations and other transit centers. The staff report will be available on July 17.

**Declaration of No Further Need: Disposition of a Portion of 100 Edison Park Drive, Gaithersburg**

On July 19 at 10:15 a.m. the GO Committee will review a declaration of no further need for the disposition of a portion of 100 Edison Park Drive in Gaithersburg. On March 12, the Executive submitted a summary of the material terms for the disposition of 4.79 acres of County-owned property located on the 51.42-acre site of the Public Safety Headquarters. The property currently consists of open fields, basketball and tennis courts and a parking lot. The City of Gaithersburg would use the property for both passive and active recreation and in a manner consistent with the City's Parks, Recreation and Open Space for the 21<sup>st</sup> Century Master Plan. The County intends to dispose of the property through a 10-year lease with two five-year options to renew. Consideration for the lease will be \$1. Under the lease, the City of Gaithersburg will be responsible for refurbishing, programming and maintaining the property. The staff report will be available on July 17.

**Maryland Safe to Learn Act of 2018**

On July 19 at 2 p.m. the Education (ED) and Public Safety (PS) Committees will meet jointly to review the Maryland Safe to Learn Act of 2018. This law requires the Maryland Center for School Safety to collaborate with certain persons and entities to provide a comprehensive approach to school safety. It requires the State's School Safety Subcabinet to develop a model policy for building assessment teams; mandates the development of a training curriculum for school resource officers and other school security employees; authorizes the Safe Schools Fund to provide grants to local school systems to enhance school safety; and requires a \$10 million annual appropriation to the fund for certain purposes. The staff report will be available on July 17.